

In The Matter Of:

*Erik D. Rigby vs.
Crosscheck Solutions, LLC, et al.*

*Deposition of Erick Rigby
October 18, 2019*

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1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WISCONSIN
3 MADISON DIVISION
4 =====
5 ERICK D. RIGBY,
6 Plaintiff,
7 -vs- Case No. 3:19-cv-00036
8 CROSSCHECK SERVICES, LLC d/b/a
9 OPTIO SOLUTIONS, LLC d/b/a
10 QUALIA COLLECTION SERVICES,
11 Defendant.
12 =====
13 Deposition of:
14 ERICK RIGBY
15 Portage, Wisconsin
16 October 18, 2019
17
18 Reported by: Paula Wondra
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1 DEPOSITION of ERICK RIGBY, called as a witness,
2 taken at the instance of the Defendant, under the
3 provisions of Chapter 804 of the Wisconsin Statutes,
4 pursuant to Notice, before Paula Wondra, a Notary
5 Public in and for the State of Wisconsin, at
6 Comfort Suites Wisconsin Dells Area, N5780 Kinney
7 Road, City of Portage, and State of Wisconsin, on the
8 18th day of October, 2019, commencing at 9:06 a.m.
9
10 A P P E A R A N C E S
11
12 NATHAN C. VOLHEIM, Attorney,
13 ATLAS CONSUMER LAW
14 2500 South Highland Avenue, Suite 200, Lombard,
15 Illinois 60148, appearing via telephone on behalf of
16 the Plaintiff. Nvolheim@sulaimanlaw.com 312-313-1613
17
18 BRENDAN H. LITTLE, Attorney,
19 LIPPES MATHIAS WEXLER FRIEDMAN, LLP
20 50 Fountain Plaza, Suite 1700, Buffalo, New York
21 14202, appearing on behalf of the Defendant.
22 Blittle@lippes.com 716-853-5100
23
24
25

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1 ERICK RIGBY,
2 called as a witness, being first duly
3 sworn, testified on oath, as follows:
4
5 EXAMINATION
6 BY MR. LITTLE:
7 Q Good afternoon, Mr. Rigby. My name is
8 Brendan Little. I'm with the law firm of Lippes
9 Mathias Wexler Friedman in Buffalo. I represent
10 the defendants in a lawsuit that you commenced in
11 the U.S. District Court for the Western District
12 of Wisconsin.
13 I'm going to ask you a series of questions
14 today about the lawsuit. If at any time you don't
15 understand my question, didn't hear my question,
16 or need the question repeated for any reason,
17 please speak up and ask me to do so. Otherwise
18 I'm going to assume you've understood the question
19 as asked. Is that fair?
20 A Yes.
21 Q Okay. I also ask you to continue to give verbal
22 responses to my questions. Your attorney,
23 Mr. Volheim, is on the phone; so he can't see head
24 nods and shoulder shrugs. And our court reporter
25 can't take that stuff down, so we've got to have
verbal communication. So I'll remind you if you

<p style="text-align: right;">Page 5</p> <p>1 slip up. I -- we kind of talk mm-hmms and</p> <p>2 uh-huhs, and try -- but yes, nos, I don't knows,</p> <p>3 etcetera, okay?</p> <p>4 A Yes.</p> <p>5 Q And finally, I don't expect this to be too long</p> <p>6 this morning. I'm going to try to get you out of</p> <p>7 here as quickly as I can. But try to let me</p> <p>8 finish my question first before you give your</p> <p>9 answer. And likewise, when you're giving your</p> <p>10 answer, I'm not going to try to ask another</p> <p>11 question so we're not talking over each other. I</p> <p>12 talk fast enough already, so I'm waiting for her</p> <p>13 to kick me under the table; but try to let</p> <p>14 one person speak at a time.</p> <p>15 And likewise, if Mr. Volheim is going to say</p> <p>16 something from the phone, there may be a second or</p> <p>17 two delay; so we're going to have to work with the</p> <p>18 situation that we have this morning.</p> <p>19 A I understand.</p> <p>20 Q And I apologize for the vacuum cleaner. It's an</p> <p>21 added effect here in the hotel.</p> <p>22 What's your date of birth?</p> <p>23 A [REDACTED]/1987.</p> <p>24 Q That makes you how old today?</p> <p>25 A Thirty-one.</p>	<p style="text-align: right;">Page 7</p> <p>1 Q The 904 South Tomahawk address, do you own that</p> <p>2 property?</p> <p>3 A No.</p> <p>4 Q Do you rent it?</p> <p>5 A Yes.</p> <p>6 Q Do you reside there with anyone?</p> <p>7 A Yes.</p> <p>8 Q Who is that?</p> <p>9 A My ex-girlfriend.</p> <p>10 Q Okay.</p> <p>11 A I am not going to reside there too much longer.</p> <p>12 Q Okay. What is her name?</p> <p>13 A Is that relevant?</p> <p>14 Q It is.</p> <p>15 A Okay. Amanda Graeber, G-R-A-E-B-E-R.</p> <p>16 Q I assume you weren't exes when you moved in</p> <p>17 together, and this is somewhat of a recent</p> <p>18 development in your life?</p> <p>19 A Yes.</p> <p>20 Q I don't want any more details.</p> <p>21 A I appreciate it.</p> <p>22 Q Do you have -- are you actively looking for a new</p> <p>23 place or --</p> <p>24 A Yes.</p> <p>25 Q Okay. So you haven't identified where you're</p>
<p style="text-align: right;">Page 6</p> <p>1 Q And where do you currently reside?</p> <p>2 A Tomahawk, Wisconsin.</p> <p>3 Q What's the address?</p> <p>4 A 904 South Tomahawk Avenue.</p> <p>5 Q How long have you lived there?</p> <p>6 A Month and a half.</p> <p>7 Q And where did you reside before that?</p> <p>8 A 423 West Leather Avenue.</p> <p>9 Q Is that also in Tomahawk?</p> <p>10 A Yes.</p> <p>11 Q And how long did you reside there?</p> <p>12 A A year.</p> <p>13 Q And prior to the 423 West -- what did you say?</p> <p>14 West Leather Street?</p> <p>15 A West Leather Avenue.</p> <p>16 Q West Leather Avenue.</p> <p>17 Where did you reside before --</p> <p>18 A W6095 Wadell Road, W-A-D-D-E-L [sic], Road,</p> <p>19 Tomahawk, Wisconsin.</p> <p>20 Q How long have you lived in Tomahawk?</p> <p>21 A Ten years.</p> <p>22 Q Were you born in Wisconsin?</p> <p>23 A No.</p> <p>24 Q Where were you born?</p> <p>25 A Humboldt County, California.</p>	<p style="text-align: right;">Page 8</p> <p>1 going?</p> <p>2 A No. It'll still be in Tomahawk.</p> <p>3 Q Okay. Have you ever given a deposition before?</p> <p>4 A No.</p> <p>5 Q Have you ever been convicted or pled guilty to a</p> <p>6 misdemeanor or a felony?</p> <p>7 A The honest answer is yes. The answer I was told</p> <p>8 to give is no, and the answer I was told to give</p> <p>9 was by the courts because I'm in a deferment.</p> <p>10 Q And is it a felony or a misdemeanor?</p> <p>11 A Felony.</p> <p>12 Q And what is it related to?</p> <p>13 A Hit and run.</p> <p>14 Q Was it an alcohol-related incident?</p> <p>15 A No.</p> <p>16 Q Was it here in Wisconsin?</p> <p>17 A Yes.</p> <p>18 Q And you're actively in the deferment program?</p> <p>19 A Yes.</p> <p>20 Q Which county?</p> <p>21 A Lincoln.</p> <p>22 Q Any other misdemeanors or felonies?</p> <p>23 A Not that I recall.</p> <p>24 Q Okay. Have you ever been a party to a lawsuit</p> <p>25 before, other than this one, whether you were the</p>

<p style="text-align: right;">Page 9</p> <p>1 plaintiff and initiated the lawsuit or you were a</p> <p>2 defendant and someone sued you?</p> <p>3 A Yes.</p> <p>4 Q And how many times?</p> <p>5 A As far as I know, one.</p> <p>6 Q Okay.</p> <p>7 A And this is a recent development for me as well.</p> <p>8 Q Okay. Is this -- you're talking --</p> <p>9 A I am a plaintiff I believe it is.</p> <p>10 Q Okay. And when you say "recent," how recent?</p> <p>11 A I found out just before the case was settled that</p> <p>12 I was involved in it.</p> <p>13 Q Okay. What type of case was it?</p> <p>14 A It was a lawsuit towards C.R. England trucking</p> <p>15 company.</p> <p>16 Q And when you say you found out, was it a class</p> <p>17 action?</p> <p>18 A It was a class action.</p> <p>19 Q What were the -- and C.R. England is a trucking</p> <p>20 company?</p> <p>21 A Yes.</p> <p>22 Q And tell me, why were you a plaintiff to that</p> <p>23 lawsuit?</p> <p>24 A Because when I started driving truck, I leased a</p> <p>25 truck from C.R. England; and it came up that they</p>	<p style="text-align: right;">Page 11</p> <p>1 Q Any other pieces of litigation that you've been a</p> <p>2 party to other than what we talked about already?</p> <p>3 A Not that I recall.</p> <p>4 Q Are you married, sir?</p> <p>5 A No.</p> <p>6 Q Have you ever been married?</p> <p>7 A No.</p> <p>8 Q Do you have any children?</p> <p>9 A Yes.</p> <p>10 Q How many?</p> <p>11 A Four.</p> <p>12 Q And where -- I don't want --</p> <p>13 A They all live in Tomahawk with me.</p> <p>14 Q Okay. At the South Tomahawk address?</p> <p>15 A Correct.</p> <p>16 Q Is Amanda their mother?</p> <p>17 A Amanda is the mother of two of them.</p> <p>18 Q And they're all minors, I assume?</p> <p>19 A Yes.</p> <p>20 Q Have you ever gone by any other name other than</p> <p>21 Erick Rigby?</p> <p>22 A No.</p> <p>23 Q Have you reviewed any documents or other materials</p> <p>24 in preparation for your testimony today?</p> <p>25 A The complaint.</p>
<p style="text-align: right;">Page 10</p> <p>1 were in some way, shape, or form shorting us</p> <p>2 money.</p> <p>3 Q So it has somewhat to do with your employment, if</p> <p>4 you will? Are you an independent contractor?</p> <p>5 A I was an independent contractor. They were --</p> <p>6 they weren't paying what they should have been</p> <p>7 paying, and then they were charging us where they</p> <p>8 shouldn't have been charging us.</p> <p>9 Q So someone reached out to you and indicated that</p> <p>10 you could be a part of the class action?</p> <p>11 A Correct.</p> <p>12 Q And you joined that class action?</p> <p>13 A I was -- I was automatically in it. I didn't even</p> <p>14 have to ask to join or -- they said I could</p> <p>15 voluntarily remove myself if I wanted to file my</p> <p>16 own separate lawsuit.</p> <p>17 Q But you did not do so?</p> <p>18 A I did not do so.</p> <p>19 Q Do you know where the case is pending?</p> <p>20 A It's not pending anymore. It settled, and they're</p> <p>21 sending out checks.</p> <p>22 Q Do you know where it was pending?</p> <p>23 A I believe it was in Salt Lake City, Utah. It was</p> <p>24 either Salt Lake City, Utah, or it was in</p> <p>25 California. Fontana, I believe.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Anything else?</p> <p>2 A The address on how to get here.</p> <p>3 Q Okay. Me too.</p> <p>4 Have you -- did you listen to any audio</p> <p>5 recordings in preparation for your testimony</p> <p>6 today?</p> <p>7 A No.</p> <p>8 Q Did you watch any videos in preparation for your</p> <p>9 testimony today?</p> <p>10 A No.</p> <p>11 Q Did you speak with anyone in preparation for your</p> <p>12 testimony today?</p> <p>13 A My attorney.</p> <p>14 Q And who is that?</p> <p>15 A Mister -- I can't pronounce his last name. Nate.</p> <p>16 MR. VOLHEIM: That's okay. That's</p> <p>17 okay.</p> <p>18 BY MR. LITTLE:</p> <p>19 Q Nate Volheim?</p> <p>20 A Yes. And Teddy -- I forgot his last name.</p> <p>21 Q I won't try that one.</p> <p>22 And when did you speak with Mr. Volheim and</p> <p>23 Teddy?</p> <p>24 A I spoke with both of them this morning as well as</p> <p>25 previously.</p>

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1 Q Have you ever met Mr. Volheim or Teddy in person?
 2 A No.
 3 Q Have you met anyone from their law firm in person?
 4 A No.
 5 Q Who is Crosscheck, LLC, if you know?
 6 A I don't know who they are. They are a creditor is
 7 all I know.
 8 Q What about Optio Solutions, LLC? Do you know who
 9 they are or it is?
 10 A I've never heard that one.
 11 Q Okay. Qualia Collection Services?
 12 A Qualia Collection Services is the company that has
 13 been calling me to try to settle a debt; but when
 14 they called me, it was Quality Collection
 15 Services.
 16 Q When you say "it was Quality," meaning --
 17 A They introduced themselves as Quality Collection
 18 Services.
 19 Q So they gave you the wrong name is what you're
 20 contending?
 21 A Yes.
 22 Q Okay. And that was each time you spoke to them?
 23 A Yes.
 24 Q Did you have a cell phone back in fall of 2018 and
 25 into early 2019?

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1 A Yes.
 2 Q And what was that cell phone number?
 3 A 966-4260.
 4 Q And the area code?
 5 A 715.
 6 Q How long had you had that number prior -- strike
 7 that. Bad question.
 8 How long had you had that number?
 9 A I've had that number for nine years.
 10 Q And who was the carrier for that telephone?
 11 A At the time of these phone calls, it was Sprint.
 12 Q Has that since changed?
 13 A Yes. And it used to be Verizon prior to that, so
 14 it's back to Verizon now.
 15 Q Did you have any landlines back in the fall of
 16 2018 and into 2019?
 17 A I did. I do not recall the phone number.
 18 Q You no longer have the landline?
 19 A I still have the landline. I don't recall the
 20 phone number. It is at the house for a babysitter
 21 or for my children to use to call.
 22 Q Did you receive any telephone calls from
 23 Crosscheck Services or Optio Solutions or
 24 Qualia Collection Services on the landline?
 25 A Not that I know of.

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1 Q When did you start receiving telephone calls from
 2 Qualia Collection Services?
 3 A As early as September of last year, I believe it
 4 was.
 5 Q So September 2018?
 6 A Yep.
 7 Q And those were on the 4260 number?
 8 A Yes.
 9 Q Have you ever received any telephone calls from
 10 Qualia Collection Services on any number other
 11 than the 4260 number?
 12 A I have not received a phone call from them. My
 13 mother did.
 14 Q Okay. We'll get there.
 15 So just so we're clear, the only time you
 16 received telephone calls from Qualia was at the
 17 number ending in 4260?
 18 A Correct.
 19 Q And when was the last telephone call that you
 20 received from Qualia?
 21 A I believe in January, toward the beginning of
 22 January.
 23 Q 2019?
 24 A Yes.
 25 Q So the universal calls, is it fair to say, are

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1 from September of 2018 to January of 2019?
 2 A Yes.
 3 Q And do you know how many telephone calls that you
 4 received in that time period, September of '18 to
 5 January of '19?
 6 A I cannot give you an exact number.
 7 Q Can you estimate for me?
 8 A I would say well over 100.
 9 Q And that number well over 100, would it be closer
 10 to 100 or closer to 150?
 11 A Probably closer to 150.
 12 Q Do you think they got up to 200 calls?
 13 A Could have.
 14 Q So it's fair to say it's about 150, and it could
 15 be as high as 200?
 16 A My numbers are guesstimates, and I can tell you
 17 that I received between three and four phone calls
 18 a day multiple times. And then there was other
 19 days that I received two phone calls, and they
 20 left me alone then. But it was multiple. It was
 21 never just one phone call in a day that I can
 22 recall.
 23 Q So I understand that your testimony is it's an
 24 estimate, but I'm just trying to pin down that
 25 estimate, you know. So I think what I'm hearing

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1 you are saying is that it's around 150, could be
 2 more, could be less?
 3 A Sure. I'll say sure to that one.
 4 Q Yeah, I don't want to put words in your mouth.
 5 A I understand. I cannot give you a number. My
 6 estimated number is my personal estimated number.
 7 If I had to sit here and say it, I would say it's
 8 probably closer to 200.
 9 Q Okay.
 10 A That's the number I would have to give you.
 11 Q Okay. Fair enough.
 12 What was the underlying debt that Qualia was
 13 attempting to collect, if you know?
 14 A I guess I don't understand the question. What was
 15 the reason that they were collecting a debt?
 16 Q That probably would be -- well, may be a better
 17 question. Let me ask it this way. Why was Qualia
 18 Collection calling you, if you know?
 19 A Because I fell behind on payments for furniture
 20 that I purchased.
 21 Q And where did you purchase the furniture?
 22 A Ashley Furniture store in Wausau, Wisconsin. I
 23 believe it was Ashley -- it was a lower quality.
 24 The one store which is Ashley Furniture, and then
 25 it was the discounted one. I don't know how to

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1 explain what the name of it was, but it was
 2 through Ashley Furniture.
 3 Q Okay. And what did you purchase that furniture
 4 for? Your home?
 5 A My home, yes.
 6 Q Is there any -- is it, in fact, true that you did
 7 fall behind on the payments?
 8 A Yes.
 9 Q Do you remember what the payment terms or
 10 arrangements were?
 11 A Being well over a year, no, I cannot remember
 12 them. I do not recall them.
 13 Q Were you supposed to make a monthly payment or --
 14 A Yes. It was a monthly payment that was supposed
 15 to be directly withdrawn from my account.
 16 Q From your checking account?
 17 A Yes.
 18 Q Okay. And when you fell behind on the payments,
 19 is that because they attempted to withdraw money
 20 from the checking account and there was no money
 21 there to withdraw or not enough money there to
 22 withdraw?
 23 A At times, yes. Yeah. Go ahead.
 24 Q Did you keep any recordings of the telephone calls
 25 that -- with Qualia Collection Services?

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1 A No.
 2 Q Did you keep a record or a chart of the calls that
 3 were coming in?
 4 A No.
 5 Q What's the event that triggered you to contact
 6 your lawyer to get representation?
 7 A Well, it was actually two events. The first one
 8 was them contacting my mother, and the second
 9 event was them threatening criminal charges.
 10 Q And just so we're clear, "them" meaning Qualia
 11 Collection?
 12 A Correct.
 13 Q And I'm assuming that's why then you commenced a
 14 lawsuit because they contacted your mother, and
 15 they threatened -- did you say criminal
 16 prosecution?
 17 A They threatened criminal prosecution. I was tired
 18 of being harassed. It -- what finally triggered
 19 me to say, okay, I'm done with this, I'm done with
 20 the phone calls and everything was the criminal
 21 charge that they threatened me with; and then they
 22 contacted my mother. I was already irritated and
 23 stressed out and overwhelmed with the phone calls,
 24 the excessive phone calls.
 25 Q What are you looking for at the end of this

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1 lawsuit?
 2 A Whatever the law allows.
 3 Q Have you -- oh, I'll get there.
 4 (Exhibit No. 1 marked for identification.)
 5 BY MR. LITTLE:
 6 Q Sir, I'm going to show you what's been marked as
 7 Exhibit No. 1 for the purposes of this deposition.
 8 MR. LITTLE: Mr. Volheim, because
 9 you're on the phone, Exhibit No. 1 is the
 10 complaint.
 11 MR. VOLHEIM: Thank you.
 12 BY MR. LITTLE:
 13 Q You indicated that you reviewed this document in
 14 preparation for your testimony today?
 15 A Yes.
 16 Q When did you review that document?
 17 A Today and when it was first written up and
 18 submitted.
 19 Q Okay. When is the first time you saw this
 20 document then, the complaint?
 21 A I don't recall.
 22 Q If the complaint was filed on January 16th of
 23 2019, does that help you recall when --
 24 A I can't give you a specific date or time.
 25 Q Actually, if you flip to page number 3 and

<p style="text-align: right;">Page 21</p> <p>1 paragraph 17, the paragraph reads, "Due to</p> <p>2 Defendant's incessant calls and outrageous</p> <p>3 conduct, Plaintiff demanded that it stop calling</p> <p>4 his cellular phone."</p> <p>5 Do you remember -- well, how many times did</p> <p>6 you ask Qualia to stop calling your cell phone?</p> <p>7 A I can recall once.</p> <p>8 Q And do you know the approximate date when you --</p> <p>9 A Sometime in December.</p> <p>10 Q Of 2018?</p> <p>11 A Yes.</p> <p>12 Q And when you asked them to stop calling, did you</p> <p>13 ask them to stop calling generally; or did you</p> <p>14 say, stop calling my cell phone?</p> <p>15 A That part, I don't recall.</p> <p>16 Q When you had that conversation with Qualia, was</p> <p>17 that as a result of a phone call that was</p> <p>18 initiated to you; or did you reach out to Qualia</p> <p>19 and say, hey, I need you to stop the calls?</p> <p>20 A They called me.</p> <p>21 Q Do you remember who you spoke with at Qualia when</p> <p>22 you made that directive?</p> <p>23 A I do not.</p> <p>24 Q Do you know if it was a man or a woman?</p> <p>25 A I can't recall.</p>	<p style="text-align: right;">Page 23</p> <p>1 A I can't give you an answer.</p> <p>2 Q Okay. After you asked the calls to stop in</p> <p>3 December of 2018, did you reach out to Qualia on</p> <p>4 your own to initiate further conversation about a</p> <p>5 resolution?</p> <p>6 A I don't recall.</p> <p>7 Q If Qualia's records reflect that you asked the</p> <p>8 calls to stop on December 12th of 2018, would that</p> <p>9 be -- does that date sound accurate to you?</p> <p>10 A Yes, somewhere toward the beginning. It was just</p> <p>11 before Christmas, so yeah.</p> <p>12 Q And if Qualia's records indicate that</p> <p>13 approximately 20 minutes after that telephone call</p> <p>14 you then reached out to Qualia in an attempt to</p> <p>15 resolve the dispute, do you have any reason to</p> <p>16 dispute that record?</p> <p>17 A After I asked them to not call me, within</p> <p>18 20 minutes, they called me back, I answered, they</p> <p>19 hung up, so I called them back.</p> <p>20 Q So it's your position that you asked the calls to</p> <p>21 stop, and when that conversation ended, they</p> <p>22 immediately called you back?</p> <p>23 A Correct.</p> <p>24 Q You did not pick up the call, and then you</p> <p>25 returned the phone call after the missed call?</p>
<p style="text-align: right;">Page 22</p> <p>1 Q Do you know anything about the job title of the</p> <p>2 person, whether it was a collector or a manager or</p> <p>3 a supervisor or anything like that?</p> <p>4 A I believe it was a supervisor because I believe I</p> <p>5 requested a supervisor.</p> <p>6 Q Okay. As you sit here today, though, you believe</p> <p>7 that's the only time that you recall asking the</p> <p>8 calls to stop?</p> <p>9 A I believe -- I -- how do I say that? I believe</p> <p>10 I've done it -- I did it another time, but I'm not</p> <p>11 positive on whether this was just from me being</p> <p>12 stressed out thinking I had the conversation or</p> <p>13 actually having the conversation.</p> <p>14 Q Okay. So it was definitely once, but maybe twice?</p> <p>15 A Correct.</p> <p>16 Q And then paragraph 18 says, "Despite Plaintiff's</p> <p>17 demand, Plaintiff has received not less than 20</p> <p>18 phone calls from Defendant since asking it to stop</p> <p>19 calling."</p> <p>20 A Correct.</p> <p>21 Q So after you asked the calls to stop in December</p> <p>22 of '18, you received at least 20 additional</p> <p>23 telephone calls?</p> <p>24 A At least, yes.</p> <p>25 Q Could the number be higher than 20?</p>	<p style="text-align: right;">Page 24</p> <p>1 A And asked -- no. I picked up the phone call, they</p> <p>2 hung up, I called back, asked for a supervisor,</p> <p>3 and said, hey, I stopped -- I asked you not to</p> <p>4 call me, and immediately called me right back.</p> <p>5 That conversation, I do remember to that extent, I</p> <p>6 should say, because I was very irritated, highly</p> <p>7 irritated and aggravated at that.</p> <p>8 Q What do you mean "to that extent"? Meaning there</p> <p>9 were other things that happened, you just don't</p> <p>10 remember what was said?</p> <p>11 A I don't remember how long the conversation was. I</p> <p>12 don't remember what supervisor I spoke to. I</p> <p>13 remember I asked them to stop calling me. Within</p> <p>14 a few minutes, they called me right back; so I</p> <p>15 called them right back after they hung up on me</p> <p>16 and asked to speak to a supervisor to discuss why</p> <p>17 they called me back after I specifically told them</p> <p>18 to stop calling me.</p> <p>19 Q And what was the supervisor's response?</p> <p>20 A I can't recall that.</p> <p>21 Q Did you -- during that call with the supervisor,</p> <p>22 did you make arrangements to attempt to resolve</p> <p>23 the outstanding account?</p> <p>24 A No.</p> <p>25 Q Did you ever make any -- did you ever have any</p>

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1 conversations with Qualia about an attempt to
 2 resolve this account?
 3 A I don't recall.
 4 Q If Qualia's records indicate that there was
 5 attempts and there was an agreement to resolve
 6 this account, would you dispute that record?
 7 A I don't recall. I don't know how -- I don't
 8 recall setting up anything, so I would have to
 9 dispute it.
 10 Q Okay. Turning back to Exhibit 1, paragraph 19.
 11 A Okay.
 12 Q It indicates, "On at least one occasion, Defendant
 13 threatened litigation and intimidated Plaintiff by
 14 stating that he would be incarcerated."
 15 Did I read that correctly?
 16 A Yes.
 17 Q Okay. Now, you indicated to me earlier that
 18 Qualia threatened criminal charges. Did -- at any
 19 point, did Qualia threaten litigation that they
 20 were going to sue you?
 21 A Yes.
 22 Q Okay. When was that?
 23 A I don't recall.
 24 Q And the complaint says on at least one occasion,
 25 they threatened to sue you. Did it happen on more

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1 than one occasion, or do you know one way or the
 2 other?
 3 A I can recall one occasion.
 4 Q Okay. But you cannot -- so it happened once, but
 5 you don't know if it happened more than once?
 6 A Correct.
 7 Q When the -- when Qualia said they were going to
 8 sue you, can you give me the sum and substance of
 9 the conversation?
 10 A It went with the -- they threatened to sue me and
 11 file criminal charges, and that's the only reason
 12 I remember that one. That's why I can't recall if
 13 they threatened litigation prior or after.
 14 Q So it was in the same call that they threatened to
 15 sue you and press criminal charges?
 16 A Correct.
 17 Q Okay. So they didn't indicate that you would be
 18 incarcerated; they just threatened purportedly
 19 that they were going to pursue criminal charges?
 20 A They were going to pursue criminal charges of
 21 theft, which normally would carry jail time so...
 22 Q Okay. But the words prison or jail time --
 23 A The way it came off to me is, yes, they were
 24 threatening criminal charges plus incarceration.
 25 Did they specifically say I was going to be

Page 27

1 incarcerated? No.
 2 Q Okay. So they indicated there was going to be --
 3 they were going to press criminal charges; and
 4 from that conversation, you yielded that that
 5 could come with jail time?
 6 A Correct.
 7 Q And just to make sure I understand, the threat of
 8 litigation and the threat of criminal charges
 9 occurred one time in the same conversation?
 10 A One time in the same conversation. Litigation
 11 prior, it is very possible that we've had that
 12 conversation as well. Before or after. But the
 13 time that I can recall is when they threatened me
 14 with criminal charges as well.
 15 Q The threat of criminal charges, did that only
 16 occur one time?
 17 A Correct.
 18 Q Okay. So to make sure I understand your testimony
 19 correctly, during the one time they threatened
 20 criminal charges, they also threatened litigation?
 21 A Yes.
 22 Q But it is possible that they also talked about
 23 litigation prior to this telephone call that we've
 24 been talking about at this point?
 25 A Yes.

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1 Q But you don't have a specific recollection?
 2 A Correct.
 3 Q Do you know the name of the person that threatened
 4 you with criminal charges?
 5 A I do not.
 6 Q Do you know if it was a man or a woman?
 7 A I want to say it was a man, but I can't recall.
 8 Q Do you know the man's title, job role, function?
 9 A No.
 10 Q Paragraph 20 says, "Moreover, on at least one
 11 other occasion, Defendant contacted Plaintiff's
 12 mother and disclosed that he owes the subject
 13 debt."
 14 What is your mother's name?
 15 A Pinkie Wood.
 16 Q And where does your mom reside?
 17 A Portsmouth, Virginia.
 18 Q And how did you learn that Qualia Collection
 19 reached out to your mother?
 20 A After she received a phone call, she called to
 21 inform me that she had received the phone call
 22 from them looking to get ahold of me to settle a
 23 debt.
 24 Q And do you know when you received the telephone
 25 call from your mom?

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1 A I do not.
 2 Q Do you know how much time passed from when your
 3 mom received the telephone call to when she
 4 reached out to you?
 5 A I know it was same day, but I don't know when she
 6 received the phone call.
 7 Q Okay. So it wasn't that she received a call on a
 8 Monday and then she reached out to you the
 9 following Monday to say, oh, by the way, someone
 10 called?
 11 A Correct.
 12 Q You believe that she received it on a Monday
 13 hypothetically, and then at some point, whether it
 14 was 10 minutes after or 6 hours after, she reached
 15 out to you to say, hey, I got this call?
 16 A Yes.
 17 Q Okay. And do you know what number that she
 18 received the telephone call at?
 19 A I believe it would have been her 319 number.
 20 Q And that 319, is that an area code number?
 21 A No. That's -- so it would be 757-319, which would
 22 also be her work phone.
 23 Q And what's your basis for -- that she received a
 24 telephone call at that number?
 25 A If I recall correctly, I was trying to figure out

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1 how they received that phone number because if I
 2 give out her phone number to anybody, it's her
 3 other cell phone, her personal cell phone.
 4 Q Okay.
 5 A And I got upset when I found out they called her
 6 work phone.
 7 Q So your mom called you and said that she received
 8 a call from whom?
 9 A Quality Collection Services.
 10 Q And then what did your mom say Quality Collection
 11 Services told her?
 12 A That was so long ago, I don't recall exactly what
 13 they said -- what she said.
 14 Q Okay. Do you know whether Quality Collection
 15 Services disclosed that you owed a debt to your
 16 mother?
 17 A Yes, because that upset me.
 18 Q How do you know that?
 19 A Well, that's what she said. She said that they
 20 called and that they were looking to get ahold of
 21 me because I owed them money.
 22 Q So you do remember then that when your mom spoke
 23 to you, she indicated to you that Quality
 24 Collection Services called her and indicated that
 25 they were looking for Erick and that Erick owed

Page 31

1 them money?
 2 A Yes.
 3 Q And obviously that's not a direct quote, but I'm
 4 paraphrasing, if you will.
 5 A Okay.
 6 Q Right?
 7 A I know that I got irritated when they called. I
 8 got irritated that they told her that I owed them
 9 money. I got irritated that they told her -- or
 10 that they called her work cell phone because I
 11 don't give her work cell phone out, and that's why
 12 I remember it. I do not remember the extent of
 13 mine and her conversation. She relayed the
 14 message from Quality Collection Services. I know
 15 it's Qualia, but it was always said to be Quality.
 16 Q Sure.
 17 A And because of my irritation, I remembered that
 18 this conversation happened. I cannot tell you the
 19 date, the time, nothing; but I can tell you that I
 20 know I got irritated because of this conversation.
 21 Q Because Qualia reached out to your mom?
 22 A Yes. Because I hadn't been ignoring Qualia's
 23 phone calls. I answered them. So why would they
 24 reach out to my mom? That's why I got irritated.
 25 Q So you asked Qualia to stop the calls in December

Page 32

1 of '18, but Qualia continued to call you, and you
 2 continued to answer the calls?
 3 A I would answer them and -- what can I do? Just to
 4 verify who it was, and then I'd hang up.
 5 Q So I believe your testimony was that you were
 6 frustrated because you were communicating with
 7 Qualia --
 8 A I was not communicating. I was answering the
 9 calls, listening to them tell me that it was them,
 10 and then I would hang up.
 11 Q Okay. But I think your testimony was that you
 12 were frustrated that they called your mom
 13 because --
 14 A I was still answering the phone calls.
 15 Q Still answering the calls?
 16 A Yes.
 17 Q And answering to you was listening to what they
 18 had to say and then hanging up and not
 19 communicating back with them?
 20 A Correct.
 21 Q When you were listening to the calls and hanging
 22 up with them, did you ever respond -- you know,
 23 communicate with them, respond to their questions,
 24 say something to them?
 25 A I don't recall.

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1 Q Okay. So in your mind, communicating with someone
 2 is picking up their call but not saying anything
 3 in return when they --
 4 A No. That's not communicating. I was not
 5 communicating with Qualia Collection Services. I
 6 answered the phone, heard them identify themselves
 7 after they asked for me. That was the
 8 communicating part.
 9 Q Okay.
 10 A Other than that, I did not communicate. They
 11 identified themselves, and I hung up.
 12 Q And after the date that you asked the calls to
 13 stop and prior to your mother receiving a call,
 14 did you ever -- did you speak with Qualia where
 15 you actually said something to Qualia on the phone
 16 during that time period?
 17 A I don't recall.
 18 Q And are you aware of -- we talked about you don't
 19 remember the conversation -- the date of the
 20 conversation between you and your mom. And I
 21 guess it would be then fair to say that, based on
 22 your testimony this morning, you don't know the
 23 date that Qualia reached out to your mom?
 24 A No.
 25 Q Do you know if it was in 2018 versus 2019?

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1 A No recollection.
 2 Q Are you aware of just a single call to your
 3 mother?
 4 A Yes.
 5 Q You're not aware of any others?
 6 A No.
 7 Q If you could turn -- flip the page to paragraph 4
 8 -- or excuse me, page 4, paragraph 23.
 9 A Okay.
 10 Q It indicates, "Plaintiff has suffered concrete
 11 harm as a result of Defendant's actions, including
 12 but not limited to, invasion of privacy."
 13 And it goes on. But we're going to take
 14 these one at a time.
 15 Can you tell me about the harm you suffered
 16 or how your privacy was invaded?
 17 A By calling and disclosing to my mother that I owed
 18 money.
 19 Q Okay. Any other ways?
 20 A I can't recall anything else.
 21 Q Okay. So then it says, "Aggravation that
 22 accompanies collection telephone calls."
 23 Can you describe to me the harm related with
 24 that?
 25 A The stress, the irritation of multiples of phone

Page 35

1 calls within days -- within a single day, not just
 2 within the week; it was multiple phone calls in a
 3 day. I'm at work, I'm with my kids, and I'm
 4 getting these phone calls.
 5 Q Okay. Anything else?
 6 A It's just consistent phone calls. Those were
 7 ridiculous.
 8 Q Okay. It says that you incurred emotional
 9 distress. Can you describe to me the emotional
 10 distress that you incurred?
 11 A Well, embarrassment. And once again, it goes to
 12 the aggravation of them calling constantly.
 13 Q And embarrassment would mean them contacting your
 14 mom?
 15 A Yes.
 16 Q Okay. And then, I'm sorry, the second part of
 17 your answer was?
 18 A Was that just the consistent phone calls --
 19 consistent phone calls. The threat of the
 20 criminal charge, that was aggravating because of
 21 everything else I was already going through. That
 22 was emotionally -- that one hurt.
 23 Q Everything else you were going through because --
 24 A With a previous question you asked me of criminal
 25 charges and the fact that I'm in a felony

Page 36

1 deferment right now. At that time, I was still
 2 going through that.
 3 Q Okay.
 4 A Part of my deferment is no more criminal charges.
 5 Q Makes sense.
 6 Then it says that you incurred increased risk
 7 of personal injury resulting from the distraction
 8 caused by the never-ending phone calls. Tell me
 9 about the increased risk of personal injury that
 10 you incurred.
 11 A Well, I mean, I'm inattentive because I'm paying
 12 attention to the phone call. I'm on the phone,
 13 I'm holding it. Am I still attentive? Yes. But
 14 is it more risk? Yes. I'm constantly having to
 15 talk on the phone.
 16 Q Okay. So you could trip and fall while you're
 17 talking on the phone?
 18 A Yes. Yes. Or if I answered the phone when I was
 19 driving my car because, where I live, we don't
 20 have a cell phone band.
 21 Q Okay. And it says that your injury's also
 22 increased use of the telephone services. I think
 23 that speaks for itself, meaning that you were on
 24 the phone more than you wanted to be?
 25 A Yes.

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1 Q Tell me about the loss of cellular phone capacity.
 2 I don't know what that is.
 3 A Well, every phone call takes up storage just from
 4 the numbers. But if you go through and delete
 5 them, then you get some of your memory back. But
 6 over time, your phone just loses memory from
 7 constant use.
 8 Q So your phone only has so many gigabytes of
 9 memory; and if you get calls in there, it loads a
 10 missed call or connected call or whatever it is.
 11 And so if you had, you know, I started with 10 gig
 12 today and I got a bunch of calls over the month,
 13 it might go down to 9 gig or 9.8 or whatever it
 14 is?
 15 A Sure. Yes.
 16 Q Okay. Did you ever quantify how much memory you
 17 actually lost from --
 18 A No, I did not.
 19 Q Okay. You just know generally that more calls
 20 that come into your phone, you lose memory
 21 capacity?
 22 A You lose memory. Your phone slows down because
 23 you're having constant use. Your phone heats up.
 24 When something heats up, it slows down.
 25 Q Okay. And then it says, "Diminished cellular

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1 phone functionality."
 2 Is that the same thing?
 3 A Yes.
 4 Q Okay. Decreased battery life on your cell phone,
 5 does that mean because you answered the call, the
 6 battery's going to go down quicker?
 7 A Yes, because it's in use.
 8 Q And then, "Diminished space for data storage on
 9 the cell phone."
 10 I guess that's what we talked about already
 11 this morning?
 12 A Mm-hmm.
 13 Q Okay. Have you suffered any other actual damages
 14 as a result of these telephone calls that you
 15 received or that your mom received?
 16 A My damages are emotional. I won't say mental. I
 17 can't say mental. It's emotional. It's stress.
 18 It's just taking too much time to deal with this
 19 this way. And, you know, having to -- now having
 20 to drive down here is cost. The drive down here
 21 to Portage has cost me more money than I can
 22 afford.
 23 Q So let me make sure I understand your answer.
 24 Well, let me ask you this. Have you sought any
 25 kind of medical treatment at all for the stress or

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1 the emotional damages you suffered as a result of
 2 the phone calls?
 3 A I wouldn't say it's specifically because of the
 4 phone calls. Do the phone calls get brought up?
 5 Yes. Do the stress of my bills and finances get
 6 brought up? Yes. Is it specifically toward
 7 Qualia Collection Services? No.
 8 Q Okay.
 9 THE WITNESS: Is it possible to
 10 take a break so I can use the restroom real
 11 quick?
 12 MR. LITTLE: Absolutely.
 13 (Recess.)
 14 BY MR. LITTLE:
 15 Q Did you ever indicate to Qualia on the telephone
 16 that you had hired someone to help you clean up
 17 your credit?
 18 A Not that I recall.
 19 Q Did you ever hire someone to clean up your credit
 20 in late 2018 or early 2019?
 21 A No.
 22 Q Do you know who uses -- strike that.
 23 Do you know who used the telephone number
 24 (757) 277-1467 in late 2018, early 2019?
 25 A Say that again.

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1 Q The telephone number is (757) 277-1467. Do you
 2 know who was using that telephone number?
 3 A I don't know who was using that phone number, no.
 4 Q Okay. What about -- it wasn't you?
 5 A It wasn't me. I haven't had that phone number
 6 since I moved to Wisconsin.
 7 Q So it's a number that you used to have?
 8 A Yes, back in 2009, 2010. I think I got rid of it
 9 at the end of 2010.
 10 Q Okay. But since you moved to Tomahawk, Wisconsin,
 11 you haven't used that number?
 12 A No.
 13 Q What about the number (757) 642-3875?
 14 A That would be my sister's phone number.
 15 Q And your sister's name is?
 16 A Tabitha Rigby.
 17 Q Do you know if Qualia ever spoke to Tabitha?
 18 A Not that I recall.
 19 Q Do you know if your cell phone records have been
 20 subpoenaed in this case?
 21 A No, I don't know.
 22 Q You don't know one way or the other if they have
 23 or have not?
 24 A No.
 25 Q Okay. So I guess if I told you they would, you

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1 have not reviewed those records?
 2 A No.
 3 Q When this lawsuit started, you initiated a claim
 4 for a violation of the Telephone Consumer
 5 Protection Act. Does that jive with your
 6 recollection?
 7 A Yes.
 8 Q Okay. And it's my understanding that you've --
 9 your lawyers on your behalf have since withdrawn
 10 that claim. Is that your understanding as well?
 11 A No. I know nothing about that part. I recall
 12 bringing up the fact that they had called me -- or
 13 that Qualia had called me excessively, and that
 14 was part of my complaint was the fact that I
 15 thought that was against the --
 16 Q TCPA?
 17 A Yeah.
 18 Q Yes?
 19 A Yes. Yes. Sorry.
 20 Q Okay. So you think that claim is still in play?
 21 A As far as I know, yes.
 22 Q Okay.
 23 MR. LITTLE: Mr. Volheim, I just
 24 want to confirm so I don't have to ask the
 25 questions. You are confirming that the TCPA

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1 claim has been withdrawn?
 2 MR. VOLHEIM: I think the record
 3 speaks for itself.
 4 MR. LITTLE: Well, there is no
 5 record before us this morning; so I just want
 6 to make sure that is the case so I don't have
 7 to ask Mr. Rigby about those questions.
 8 MR. VOLHEIM: I will stipulate that
 9 anything that was filed on the record is the
 10 situation that I know of right now. I don't
 11 really know what to tell you. You're asking
 12 Mr. Rigby legal questions that he can't
 13 answer. So I mean, did we stipulate that the
 14 TCPA claim is withdrawn? That's on the
 15 record. That's on the record.
 16 MR. LITTLE: Okay. That's what I
 17 was asking. I was confirming that the
 18 stipulation was in place, that the TCPA claim
 19 has been withdrawn. Are you agreeing to
 20 that? I'm sorry. One second, Nate, because
 21 there's a vacuum going on in the background;
 22 and the court reporter can't hear you. So
 23 bear with us for one minute. I'll let you
 24 know when the vacuum cleaner has passed by.
 25 Maybe if I move it closer to you.

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1 Sorry. There was some background noise here.
 2 I moved the phone closer to the court
 3 reporter. I was making sure that the
 4 stipulation was in place that the TCPA claim
 5 has been withdrawn. I'm asking you to
 6 confirm that, please.
 7 MR. VOLHEIM: I can confirm the
 8 stipulation.
 9 MR. LITTLE: Okay. Thank you.
 10 BY MR. LITTLE:
 11 Q Okay. Given that the claim has been withdrawn, I
 12 don't need to ask you any questions about that
 13 particular claim.
 14 A Okay.
 15 (Exhibit No. 2 marked for identification.)
 16 BY MR. LITTLE:
 17 Q Sir, I'm going to show you what's been marked as
 18 Exhibit No. 2 for this deposition.
 19 MR. LITTLE: Mr. Volheim, Exhibit
 20 No. 2 is Plaintiff's Amended Supplemental
 21 Answer and Objections to Defendant's
 22 Interrogatories.
 23 MR. VOLHEIM: Thank you.
 24 BY MR. LITTLE:
 25 Q Sir, have you ever seen this document before,

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1 Exhibit No. 2?
 2 A I don't recall, no.
 3 Q Did you ever sign a verification page for this
 4 particular document?
 5 A I don't recall.
 6 Q So it's possible that you've seen this document
 7 before, but you don't have a specific
 8 recollection?
 9 A It would have been at the very beginning of all of
 10 this. I don't -- yeah.
 11 Q At the very beginning, meaning when you started
 12 the lawsuit?
 13 A Yes.
 14 Q If you flip to the last page, page 8, it shows
 15 that it's dated April 18th of 2019; so this would
 16 be several months after your lawsuit started in
 17 January.
 18 A Then I don't -- I don't recall seeing this.
 19 Q Okay. Quickly, since I marked it, I'll ask you,
 20 flipping to page 6, Interrogatory No. 10.
 21 A Okay.
 22 Q This interrogatory asks the dates and times that
 23 you demanded Optio or Qualia Collection Services
 24 to stop calling your phone. I assume that your
 25 testimony earlier today or our conversation

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1 earlier today, you don't have a specific
 2 recollection, but you think it was sometime in
 3 December of '18?
 4 A Yes.
 5 Q And moving on to number 11 on the same page,
 6 "Threatened litigation and intimidating the
 7 plaintiff that he would be incarcerated."
 8 Again, we're talking about the single
 9 telephone call that, in that telephone call, there
 10 was a threat of criminal charges and litigation?
 11 A Yes. I can say I've seen something like this, but
 12 I can't say it's specifically this one.
 13 Q So you're flipping through Exhibit No. 2, for the
 14 record, just so we're clear, because we have to
 15 articulate it to the court reporter.
 16 A Yes.
 17 Q You're flipping through Exhibit 2, and you're
 18 saying you've seen a document similar to that
 19 before, but you can't say for sure that --
 20 A It was this one.
 21 Q -- it was this specific document?
 22 A Yes.
 23 Q Okay. So can you, in your own words, describe to
 24 me the actual damages that you suffered as a
 25 result of the telephone calls we talked about here

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1 this morning?
 2 MR. VOLHEIM: Objection. Asked and
 3 answered. You can go ahead, Mr. Rigby.
 4 THE WITNESS: I thought we already
 5 answered that one. But undue stress, time
 6 away from what I need to worry about and take
 7 care of. Yeah. I mean, I believe we've
 8 already -- we answered that previously.
 9 BY MR. LITTLE:
 10 Q Okay. So it's the stress of dealing with the
 11 calls and the time away from your personal life?
 12 A The time away from dealing with my job, dealing
 13 with my children, dealing with the other
 14 responsibilities that I have to deal with. We
 15 already covered what the damages were, and I
 16 thought I answered those in my own words as well
 17 when you asked the questions about them.
 18 Q Okay. Have you suffered any economic harm,
 19 meaning money out-of-pocket?
 20 A Yes. And that would have been -- I can't give you
 21 a total unless I go back and look at it, but I
 22 believe it was somewhere around \$600.
 23 Q Okay.
 24 A Because when all of this started, they were
 25 withdrawing money. I asked them to stop so I can

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1 fix it. That way they had the money in the
 2 account to withdraw it from. I called and
 3 explained to them what was going on on that fact
 4 that the money wasn't there and they still
 5 withdrew it anyways, which caused me to get even
 6 further behind.
 7 And I had to pay these funds back before I
 8 could have the account stable enough for them to
 9 withdraw. They wouldn't listen to that part.
 10 Even though they said they understood, they didn't
 11 stop withdrawing. And at those times, it started
 12 with one; so I went to fix it. And before I could
 13 get it fixed, they withdrew it again, which caused
 14 me two more fees. And it just kept building that
 15 up until the end of October, beginning of November
 16 of 2018.
 17 Q So when you say -- I've got to breakdown that
 18 answer a little bit. "They" meaning Qualia, I
 19 assume?
 20 A Yes.
 21 Q Okay. And you --
 22 A Qualia, Crosscheck, whatever. That company of
 23 whom I spoke with, they would not stop withdrawing
 24 money from my bank account. It caused it to
 25 overdraw for insufficient funds. When I called

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1 and said, hey, stop, I will make a payment on this
 2 day, they still withdrew it before I could make
 3 the payment, and they caused my account to
 4 continuously be overdrawn. I didn't have the
 5 opportunity to fix it.
 6 Q Let me make sure I understand what you're saying.
 7 So you're saying that you had a payment scheduled
 8 to come out of your account on the 1st of the
 9 month?
 10 A Mm-hmm.
 11 Q Yes?
 12 A Yes.
 13 Q And you called before that payment was scheduled
 14 to come out of your account and said, hey, I can't
 15 make the payment on the 1st, there's not enough
 16 funds, I'm going to make a payment on a different
 17 date?
 18 A I didn't do that the first time this happened. I
 19 did that the second time this happened.
 20 Q Okay. So you knew that I guess -- well, let me
 21 make sure I understand. So --
 22 A The first time this happened, I thought I had the
 23 funds in there. I found out I didn't have the
 24 funds, so I called and told them, hey, I have the
 25 funds in there now, you can pull it. They pulled

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1 that one.

2 Then I called and said the funds are not

3 going to be here until this date, and they still

4 pulled it on this date. I don't have a specific

5 date.

6 **Q Let me ask -- I think I can clear it up. So it**

7 **was supposed to draw -- the money was supposed to**

8 **come out of your account on a certain date. You**

9 **thought you had enough money in the account. It**

10 **turns out that you didn't. Then you called after**

11 **the fact and said, okay, now there is enough**

12 **money, go ahead and withdraw, and they did?**

13 A Yes.

14 **Q Then you knew coming up that they were going to**

15 **withdraw on a date in the future. In advance of**

16 **that happening, you contacted Qualia in advance to**

17 **say, hey, I'm not going to have enough money in my**

18 **account, please do not withdraw on this date?**

19 A Yes.

20 **Q And your claim is that they ignored your directive**

21 **and still withdrew the money?**

22 A Yes.

23 **Q And as a result of that, you incurred some kind of**

24 **fee with your bank?**

25 A Yes.

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1 **Q Okay. And it's my understanding that you have**

2 **approximately \$600?**

3 A Yes, in fees.

4 **Q In fees. Bank fees?**

5 A Correct.

6 **Q Okay. What bank were they trying to withdraw --**

7 **strike that.**

8 **What account at what bank were they using to**

9 **try to withdraw funds?**

10 A It would have been my Ripco account, my Ripco

11 checking account.

12 **Q And Ripco, R-I-P-C-O?**

13 A Yep.

14 **Q Okay. Is that a --**

15 A It's a credit union.

16 **Q Okay. I'm not from here.**

17 A Yeah, it's a credit union in northern Wisconsin.

18 **Q Okay. And it would have been Ripco that charged**

19 **you approximately \$600 in fees because of the**

20 **attempts to debit the account, but there were**

21 **insufficient funds?**

22 A Correct.

23 **Q Okay. Other than the bank fees that we talked**

24 **about this morning, have you suffered any other**

25 **economic harm as a result of these telephone**

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1 **calls?**

2 A Of the telephone calls, no.

3 **MR. VOLHEIM:** Objection. Asked and

4 answered. You can go ahead.

5 **THE WITNESS:** For this whole thing

6 going on now, this is adding cost.

7 **BY MR. LITTLE:**

8 **Q "This" meaning the deposition?**

9 A Correct.

10 **Q Okay. You had to pay for gas to drive down here**

11 **today?**

12 A Gas, maintenance on my vehicle, all of that to

13 come down here, yes.

14 **Q Okay. So for the economic loss, I have the bank**

15 **fees, your time here today. Anything else?**

16 A I'm missing work today.

17 **Q I didn't ask you this. I guess my question would**

18 **be, are you currently employed?**

19 A Yes, I am currently employed.

20 **Q Okay. And where are you working?**

21 A Country Terrace.

22 **Q And what is Country Terrace?**

23 A It's an assisted-living home in Tomahawk,

24 Wisconsin.

25 **Q And what do you do there?**

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1 A I am the head cook.

2 **Q And because -- so you -- in order to sit for your**

3 **deposition today, you had to take the day off of**

4 **work?**

5 A Yes.

6 **Q And you don't have vacation time, etcetera?**

7 A No.

8 **Q So you're losing your pay for today?**

9 A Correct.

10 **Q And because I'm trying to calculate all of this,**

11 **do you have an approximation as to what you would**

12 **have earned today if you would have worked?**

13 A 8 times 14.

14 **Q 8 hours times \$14 an hour?**

15 A Yes.

16 **Q Okay. I'll do that math later. I won't count on**

17 **my fingers here.**

18 **Any other economic harm?**

19 A Not that I can recall.

20 **Q I'm just going to go over my notes to see if I**

21 **have anything else for you. Bear with me for one**

22 **second.**

23 A All right.

24 (Recess.)

25

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1 BY MR. LITTLE:
2 Q At the time of these telephone calls in late '18
3 and early '19, were you employed by the same
4 employer?
5 A No.
6 Q Where were you employed back then?
7 A Redline Transportation.
8 Q Is that a trucking company?
9 A Yes.
10 Q When did you start your current job?
11 A July of this year, of 2019.
12 THE WITNESS: Can I ask you an
13 off-the-record question?
14 MR. LITTLE: Yeah, go ahead. We
15 can go off the record.
16 COURT REPORTER: Yes.
17 (Recess.)
18 MR. LITTLE: We can go back on the
19 record. Okay. I have no further questions,
20 Mr. Rigby.
21 THE WITNESS: All right. Thank
22 you.
23 MR. LITTLE: Mr. Volheim, do you
24 have anything?
25 MR. VOLHEIM: Just very few. And

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1 actually, that would be one of my questions
2 too; so I'm impressed with that. Erick, I
3 just have very, very few questions for you.
4 Can you hear me all right?
5 THE WITNESS: Yes.
6 MR. VOLHEIM: Okay. Great.
7 EXAMINATION
8 BY MR. VOLHEIM:
9 Q So when you made the purchase from
10 Ashley Furniture, did you provide any phone
11 numbers to them that belong to your mother?
12 A I don't recall. I don't believe so.
13 Q Okay. Did you ever provide any of your mother's
14 phone numbers to Qualia Collection or any of the
15 other entities that we spoke about -- that you
16 spoke about today?
17 A No.
18 Q Do you have any idea how Qualia Collections got
19 your mother's phone number?
20 A I do not.
21 Q You testified earlier today that you -- the phone
22 calls and your communications with Qualia made you
23 stressed; is that correct?
24 A Yes.
25 Q When you're stressed out or experiencing anxiety

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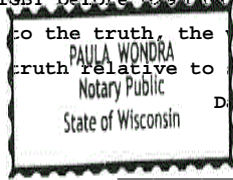
1 and things like that, do you ever get headaches?
2 A Yes.
3 Q Do you take any over-the-counter, like, Aspirin or
4 Advil or headache medicine when you get headaches?
5 A Ibuprofen or Aspirin as needed.
6 Q Okay. Did you purchase that with money out of
7 your pocket?
8 A Yes.
9 Q Do you recall if you took any ibuprofen or Aspirin
10 as needed related to any of the conduct by Qualia?
11 A I can't recall that one.
12 Q Is it possible that you did?
13 MR. LITTLE: Form. Go ahead.
14 THE WITNESS: Yes.
15 MR. VOLHEIM: I don't have any
16 other questions for you, Erick, subject to
17 whatever Mr. Little asks. Thank you.
18 MR. LITTLE: I just have one
19 follow-up question.
20 FURTHER EXAMINATION
21 BY MR. LITTLE:
22 Q Are you -- as a part of your claim here today, are
23 you claiming that your purchase of Aspirin or
24 ibuprofen is monetary damages as a result of this
25 lawsuit?

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1 A No.
2 MR. LITTLE: Okay. That's all I
3 have. All set, Nate?
4 MR. VOLHEIM: I don't have anything
5 further. Yeah, I'm done.
6 MR. LITTLE: Okay. We'll go off
7 the record.
8 MR. VOLHEIM: Our order will be an
9 electronic version without the exhibits.
10 (Adjourned at 10:15 a.m.)
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1 STATE OF WISCONSIN)
2 COUNTY OF DANE) ss
3)

4 I, Paula Wondra, a Notary Public in and for the
5 State of Wisconsin, do hereby certify that the
6 foregoing deposition was taken before me at
7 Comfort Suites Wisconsin Dells Area, N5780 Kinney
8 Road, City of Portage, and State of Wisconsin, on the
9 18th day of October, 2019; that it was taken at the
10 request of the Defendant, upon verbal
11 interrogatories; that it was taken in shorthand by
12 me, a competent court reporter and disinterested
13 person, approved by all parties in interest and
14 thereafter converted to typewriting using
15 computer-aided transcription; that said deposition is
16 a true record of the deponent's testimony; that the
17 deposition was taken pursuant to Notice; that said
18 ERICK RIGBY before examination was sworn by me to
19 testify to the truth, the whole truth, and nothing
20 but the truth relative to said cause.



Dated October 22nd, 2019

Notary Public
In and for the State of Wisconsin

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